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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,388	02/07/2001	Francis C. Szoka JR.	13054.01600	4514

7590

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Nathan P. Koenig  
Crosby, Heafey, Roach & May  
P.O. Box 7936  
San Francisco, CA 94120-7936

EXAMINER

SCHNIZER, RICHARD A

ART UNIT

PAPER NUMBER

1635

DATE MAILED: 03/20/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/778,388

Applicant(s)

SZOKA ET AL.

Examiner

Richard Schnizer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-52 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restriction***

Claims 1-52 are generic to a plurality of disclosed patentably distinct species of “hydrophilic portions”. The species include: methoxypolyethylene glycol, polyethyleneglycol, hydroxylated dendrons, poly(methyloxazoline), poly(ethyloxazoline), and polyvinylpyrrolidone. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Claims 1-52 are generic to a plurality of disclosed patentably distinct species of “cationic groups”. The species include: primary amines, secondary amines, tertiary amines, quaternary ammoniums, and imidazoles. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Claims 1-52 are generic to a plurality of disclosed patentably distinct species of “hydrophobic portions”. The species include: distearoylglycerol, dipalmitoylglycerol, dimyristoylglycerol, and dioleoylglycerol. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Claims 1-52 are generic to a plurality of disclosed patentably distinct species of “lipids”. The species include: DOPE and each of the lipids recited in claim 25. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

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Claims 1-52 are generic to a plurality of disclosed patentably distinct species of "targeting ligands". The species include: hyaluronan, antibodies, peptides, folate, receptor agonists, carbohydrates, transferrin, protein hormones, and cytokines. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Claims 1-52 are generic to a plurality of disclosed patentably distinct species of "non-aqueous, water miscible solvents". The species include: acetonitrile, dimethylsulfoxide, glyme, methylpyrrolidone, ethanol, and triacetin. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner(s) should be directed to Richard Schnizer, whose telephone number is 703-306-5441. The examiner can normally be reached Monday through Friday between the hours of 6:20 AM and 3:50 PM. The examiner is off on alternate Fridays, but is sometimes in the office anyway.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Leguyader, can be reached at 703-308-0447. The FAX numbers for art unit 1632 are 703-308-4242, and 703-305-3014. Additionally correspondence can be transmitted to the following RIGHTFAX numbers: 703-872-9306 for correspondence before final rejection, and 703-872-9307 for correspondence after final rejection.

Inquiries of a general nature or relating to the status of the application should be directed to the Patent Analyst Trina Turner whose telephone number is 703-305-3413.

A handwritten signature in black ink, appearing to read 'R. Schnizer', with a horizontal line extending to the right.

Richard Schnizer, Ph.D.